

NOT PRECEDENTIAL

(Doc. No. 6)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

TEAMSTERS HEALTH AND WELFARE  
FUN OF PHILADELPHIA AND  
VICINITY, et al.,

Plaintiffs,

V.

PRESTON CONSTRUCTION, LLC,

Defendant,

Civil No. 13-6261 (RBK/AMD)

## ORDER

**KUGLER**, United States District Judge:

**THIS MATTER** having come before the court upon the letter submitted by Plaintiffs,  
(Doc. No. 7); and

**IT APPEARING TO THE COURT** that Plaintiffs filed a motion for judgment by default after Defendant failed to file a response to Plaintiffs' complaint, (Doc. No. 6); and

**IT FURTHER APPEARING TO THE COURT** that Plaintiffs were subsequently contacted by Mr. Cecil Preston, the principal of Preston Construction, LLC and the person who accepted service of the complaint in this action, who advised Plaintiffs that his interest in Defendant Preston Construction, LLC ceased March 2013; and

**IT FURTHER APPEARING TO THE COURT** that Mr. Preston indicated that he was involved with litigation with Mr. Henry Miniscalco, the minority owner of Defendant Preston Construction, LLC, and that the matter was resolved as to him because turned over all of his

interest in the company to Mr. Miniscalco; Mr. Preston also stated that he sent the Complaint in this matter to Mr. Miniscalco along with Plaintiffs' motion for judgment by default; and

**IT FURTHER APPEARING TO THE COURT** that after Plaintiffs contacted Mr. Preston's counsel, they learned that Preston Construction, LLC had been owned by Cecil Construction, LLC and Miniscalco Construction, LLC; and

**IT FURTHER APPEARING TO THE COURT** that Cecil Construction, LLC filed a Chapter 7 bankruptcy petition in 2013, and on March 10, 2013, a motion was filed in bankruptcy court for the sale of Preston Construction, LLC to Miniscalco Construction, LLC, and the sale was approved; and

**IT FURTHER APPEARING TO THE COURT** that Plaintiffs now wish to formally serve Mr. Miniscalco and request that the Court defer ruling on the motion for judgment by default until Mr. Miniscalco is formally served and given time to answer the Complaint;

**IT IS HEREBY ORDERED** that the motion for judgment by default will be **DENIED WITHOUT PREJUDICE**; and

**IT IS HEREBY FURTHER ORDERED** that Plaintiffs may refile their motion should Mr. Miniscalco fail to file a response to Plaintiffs' Complaint.

Dated: 7/1/2014

s/ Robert B. Kugler  
ROBERT B. KUGLER  
United States District Judge